IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL WRIT PETITION NO. 6696 OF 2007 (O&M)

DATE OF DECISION: May 23, 2007

Parties Name

JCT Electronics Limited

..PETITIONER

VERSUS

Regional Provident Commissioner and another

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BLE MRS. JUSTICE NIRMAL YADAV

PRESENT: Mr. Akshay Bhan,
Advocate, for the petitioner.

Mr. Kamal Sehgal, Advocate,

Mr. R.K. Gautam, Advocate, for the applicant-Union.

JASBIR SINGH, J. (oral)

Order.

This order will dispose of two writ petitions, i.e., C.W.P. No. 6696 and 6719, both of the year 2007, as common questions of law and facts are involved in both these cases. For facility of dictating order, facts are being taken from CWP No. 6696 of 2007.

This writ petition has been filed with a prayer to quash orders dated July 22, 2005 and November 24, 2006 (Annexures P-8 and P-10 respectively). It is an admitted fact that against the impugned orders, appeal before the Employees' Provident Fund Appellate Tribunal, New Delhi, is pending and the same is now fixed for August 6, 2007. In view of pendency of the appeal, it is not possible to interfere in the above said orders, on merits. Counsel for the petitioner has confined his prayer with regard to

deposit of amount as is mandatory under the provisions of Section 7(O) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. Records reveal that to get exemption, to deposit that amount, application was moved, which was disposed of vide order dated February 23, 2007, and deposit of amount was reduced from 75% to 25% of the liability assessed against the petitioner. While doing so, following facts were noticed by the Tribunal:

> "The learned counsel for the appellant submitted that the impugned order is totally against the facts and the liability has been imposed by presuming the lock out as illegal. It is further contended that the dispute regarding legality of the lock out has been decided by the Industrial Tribunal, Punjab, in terms of the settlement dated 26.8.2004 executed under Section 12(3) of the Industrial Disputes Act. It is also stated that the Hon'ble High Court in its judgement dated 29.07.2004 nowhere had held the lock out as illegal. The award of the Industrial Tribunal is also in light of the settlement dated 26.8.2004 and thus the settlement executed before the concilatory body has been accepted even by the adjudicatory body i.e. the Industrial Tribunal. In such circumstances the Asstt. Provident Fund Commissioner should have also accepted the settlement. It is also contended that the factory is in acute financial problem in as much as it had loans and liabilities of over Rs. 600 crores and losses worth Rs. 222 crores. It became a sick industry and was registered with the BIFR under the Sick Industrial

Companies (Special Provisions) Act, 1985 and the operating agency is in the process of framing the scheme."

It has vehemently been contended that the petitioner has not commenced its production since May, 2001. It is under debt and is at present registered with BIFR. Scheme for rehabilitation has been formulated. If that is so, we are of the view that some more compassion can be shown to the petitioner. In view of this, petitioner is directed to deposit an amount of Rs. 30,00,000/- (Thirty Lacs) for both the appeals. Needful be done within a period of ten days from today. Period fixed by the Tribunal vide order Annexure P-11 stands extended by ten days, during which period petitioner shall deposit the amount. Disposed of.

Copy of the order be given Dasti.

(Jasbir Singh)
Judge

(Nirmal Yadav)
Judge

May 23, 2007.
DKC